

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/11/2017

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE R.SURESH KUMAR

Writ Petition No.28861 of 2017

1. Sri.V.R.Shivadasan
 2. Smt. Arundathi
- ...Petitioners

Vs

1. M/s. Asset Reconstruction
Company (India) Ltd
rep. by its Officer
Sri Harish Kumar G.
Branch Office at Flat No.305,
II Floor, Kedia Arcade
No.92 Infantry Road
Bangalore 560 001.
 2. M/s. Edifice Builders Pvt Ltd
rep. by its Authorised Signatory and
Direcotr Sri.Nikhil Thard
Edifice Cube, No.P# & P4, Sector 12
10th Main, Jeevan Bheema Nagar Main Road
HAL III Stage,
Bangalore 560 075.
- ...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records on the file of the Hon'ble Debt Recovery Appellate Tribunal, Chennai, in I.A.No.1244 of 2017 in A.I.R.No.364 of 2017, dated 13/10/2017 and quash the same and consequently order waiver of the pre-deposit amount to entertain the appeal in AIR No.364/2017.

For petitioners ..Mr.Ralph V.Manohar

O R D E R

(Order of the Court was made by S.MANIKUMAR, J)

Proceedings, dated 13/10/2017, challenged by the writ petitioners/borrowers, is an order made in the waiver petition No.I.A.1244 of 2017, by which the Debts Recovery Appellate Tribunal, Chennai, has directed the first petitioner herein, to make a pre-deposit of Rs.20 lakhs, within four weeks from

13/10/2017, with the Registrar of Debts Recovery Appellate Tribunal, Chennai, for entertaining the appeal filed in A.I.R.No.364 of 2017. Debts Recovery Appellate Tribunal, Chennai, has directed the Registry to list I.A.No.1244 of 2017, filed for waiver in A.I.R.No.364 of 2017, for confirmation of pre-deposit of Rs.20 lakhs, on 10/11/2017.

2. When the instant writ petition came up for hearing, Mr.Ralph V.Manohar, learned counsel for the writ petitioners submitted that though an other interim application has been filed, seeking adjournment, on the ground that the instant writ petition has been filed, the latter application has also been dismissed. Consequently, Appeal in A.I.R.No.364 of 2017 has not been entertained. I.A.No.1244 of 2017 has been dismissed. Proceedings dated 13/10/2017, merges with the final order made in A.I.R.No.364 of 2017.

3. Though Mr.Ralph V. Manohar, learned counsel for the petitioners submitted that while disposing of the subsequent I.A., Debts Recovery Appellate Tribunal, Chennai, observed that depending upon the decision made in the instant writ petition, suitable orders would be passed, we are not in agreement with the said observation for the reason stated supra. We are of the view that unless and until the final order, made in I.A.No.1244 of 2017 and rejection of appeal are tested, status-quo as on 13/10/2017, cannot be restored. Therefore, giving liberty to the writ petitioners, to challenge the final order made in I.A.No.1244 of 2017, dated 10/11/2017, instant writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mvs.

+ 1 cc to Mr. Ralph V. Manohar, Advocate SR.79994
+ 1 cc to Mr. Ralph V. Manohar, Advocate Sr.79994(24.11.17)

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EU(23/11/2017)